

AMENDED IN SENATE MARCH 20, 2006

SENATE BILL

No. 1288

Introduced by Senator Cedillo

February 14, 2006

An act to amend Section 11758.46 of, ~~and to add Section 11758.48 to, the Health and Safety Code, and to amend Section 14053 of, and to add Section 14138.2 to, the Welfare and Institutions Code, relating to the Health and Safety Code, relating to Medi-Cal.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1288, as amended, Cedillo. Medi-Cal: minors: drug and alcohol treatment.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law provides for the Medi-Cal Drug Treatment Program, under which each county enters into contracts with the State Department of Alcohol and Drug Programs for the provision of various drug treatment services to Medi-Cal recipients, or the department directly arranges for the provision of these services if a county elects not to do so.

~~Existing law provides that a minor who is 12 years of age or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug- or alcohol-related problem. Existing law prohibits a parent of a person under 21 years of age from being held financially responsible for certain health care services to which the person may consent, including those services relating to a drug- or alcohol-related problem.~~

This bill would make specified findings and declarations regarding the need for and availability of drug and alcohol treatment services to minors. It would require that residential drug and alcohol treatment services *and other specified services for minors persons 12 to 20 years of age and older* be a covered benefit under the Medi-Cal Drug Treatment Program, regardless of the availability of federal financial participation. The bill would require the State Department of Alcohol and Drug Programs to offer a continuum of services ranging from residential treatment facilities to individual and group outpatient counseling services to minors 12 years of age and older, to the extent that these services are not provided by a county, and would require that individual counseling services constitute a significant component of the outpatient drug and alcohol counseling services available to those minors *Health Services to use its best efforts to obtain approval by the federal Centers for Medicare and Medicaid Services of a Medicaid state plan amendment providing for federal financial participation with respect to those services, but would require the services to be covered under the Medi-Cal program even if federal financial participation is not obtained. The bill would provide that county welfare departments shall not be responsible for the costs of board and care related to the provision of the above residential drug and alcohol treatment services.*

~~Existing law excludes from coverage under the Medi-Cal program care or services for any individual who is an inmate of an institution, except as specified.~~

~~This bill would create an exception from this provision for drug and alcohol treatment services for minors who are incarcerated in a juvenile facility, or otherwise under the jurisdiction of the Division of Youth Operations within the Department of Corrections and Rehabilitation. It would require that this benefit apply regardless of the availability of federal financial participation, and that the services available be substantially similar to those available under the Medi-Cal Drug Treatment Program, consistent with the legitimate security interests of the facility.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In the State of California very few resources exist for youth
4 drug treatment, and specifically for residential or inpatient care.
5 Even the state Drug Medi-Cal program neglects many of the drug
6 treatment needs of youths. In a 2002 Legislative Analyst office
7 survey of the Drug Medi-Cal program, the Office of the
8 Legislative Analyst found that although youths compose 23
9 percent of the caseload for the Drug Medi-Cal program, they
10 receive only 6 to 8 percent of the total budget. In addition,
11 three-fourths of the Drug Medi-Cal program budget is spent on
12 methadone treatment, a service that minors are *generally*
13 prohibited from availing themselves of according to both state
14 and federal ~~statute~~ *rules*. Another drug treatment resource that
15 youths are restricted from using are the funds allocated by
16 Proposition 36.

17 (b) Services that minors may consent to without parental
18 approval under the Medi-Cal program (Medi-Cal minor consent
19 services) *generally* do not include residential drug treatment
20 services.

21 (c) In California, under current funding and licensing
22 requirements, the only setting for residential youth alcohol and
23 drug treatment is either a child welfare-based group home or an
24 adult residential alcohol and drug treatment program that has a
25 state waiver to admit a very small number of youth.

26 (d) By expanding the scope of benefits for Medi-Cal ~~minor~~
27 ~~consent~~ services to include residential substance abuse treatment,
28 service providers will have an increased incentive to establish
29 residential substance abuse treatment facilities.

30 (e) Neither the reimbursement rate nor the scope of benefits of
31 Medi-Cal ~~minor consent~~ drug treatment services comes close to
32 meeting the demands of the caseload.

33 (f) The American Society of Addiction Medicine has
34 recommended that substance abuse treatment should include a
35 continuum of care in which preventative, outpatient, residential,
36 and followup treatment services are available to youth suffering
37 from substance abuse disorders.

1 (g) Our culture often views substance abuse disorders as
2 “adult disorders,” a fact that has unfortunately resulted in an
3 adult-driven system of care and treatment for those suffering
4 from substance abuse disorders.

5 (h) Today, California has the highest treatment gap, on a
6 percentage basis, in the nation for persons 12 years of age and
7 over.

8 (i) Estimates based on the Federal Substance Abuse and
9 Mental Health Services Administration’s 2003 National Survey
10 on Drug Use and Health indicate that, in 2002, approximately
11 468,000 persons between the ages of 12 and 18 years in
12 California had a substance abuse problem that warranted
13 treatment. In that same year, only 18,965 youth in that age group
14 were actually admitted to publicly financed substance abuse
15 treatment.

16 (j) The Center for Substance Abuse Treatment estimates that 1
17 in 10 adolescents who need substance abuse treatment actually
18 receives it, and of those who receive treatment, only 25 percent
19 receive enough treatment.

20 (k) The State Department of Education reported that, during
21 the 2001–02 academic year, 42 percent of the 8,133 students who
22 were expelled were mandatorily excused due to drug and alcohol
23 violations.

24 (l) *Various research studies, including a study conducted by*
25 *the National Institute on Drug Abuse, have indicated that drug*
26 *treatment programs, including residential treatment for*
27 *adolescents, can be effective in reducing the use of alcohol and*
28 *illegal drugs, improving school attendance and performance, and*
29 *reducing involvement with the criminal justice system.* The State
30 Department of Alcohol and Drug Programs has calculated the
31 cost of residential drug treatment in the community to be \$175
32 per day, per youth.

33 (m) Over the seven-year period between 1990 and 1997, the
34 adult drug arrest rate in California decreased by 11 percent,
35 whereas the juvenile drug arrest rate increased by 39 percent. No
36 studies specific to California juvenile drug arrest rates have been
37 conducted since 1999, so these figures are the most relevant data
38 available.

39 (n) In a recent study conducted at the University of California,
40 Los Angeles, researchers concluded that untreated addictions are

1 what bring youths into the juvenile justice system in the first
2 place.

3 (o) According to a report by the Schwab Foundation in 2004,
4 the majority of youth entering substance abuse treatment in
5 California are referred through the juvenile justice system.

6 ~~(p) The increasing trend of youth substance abuse disorders is~~
7 ~~compounded by the lack of drug treatment in the juvenile~~
8 ~~institutional setting. In the juvenile halls and probation camps of~~
9 ~~the County of Los Angeles, while substance abuse case~~
10 ~~management services are provided, no substance abuse treatment~~
11 ~~exists, except for those youths with a combination of substance~~
12 ~~abuse and mental health disorders.~~

13 ~~(q) As long as youths remain in custody, youths suffering from~~
14 ~~substance abuse disorders do not receive substance abuse~~
15 ~~treatment unless they are transferred into state custody within the~~
16 ~~Division of Juvenile Justice, formerly the California Youth~~
17 ~~Authority, or until they enter the adult incarceration system.~~

18 ~~(r) Incarcerated youths are not covered under Medi-Cal minor~~
19 ~~consent services. This poses a great problem for youth who are in~~
20 ~~the middle of a drug treatment program at the time of their~~
21 ~~arrests, as they are not able to continue drug treatment while in~~
22 ~~custody, and therefore are more likely to return to the juvenile~~
23 ~~justice system for drug-related offenses.~~

24 SEC. 2. Section 11758.46 of the Health and Safety Code is
25 amended to read:

26 11758.46. (a) For purposes of this section, “Drug Medi-Cal
27 services” means all of the following services, administered by the
28 department, and to the extent consistent with state and federal
29 law:

30 (1) Narcotic treatment program services, as set forth in Section
31 11758.42.

32 (2) Day care rehabilitative services.

33 (3) Perinatal residential services for pregnant women and
34 women in the postpartum period.

35 (4) Naltrexone services.

36 (5) Outpatient drug-free services.

37 ~~(6) Residential drug and alcohol treatment services for minors~~
38 ~~12 years of age and older, including minors who may consent to~~
39 ~~treatment pursuant to Section 6929 of the Family Code,~~
40 ~~regardless of the availability of federal financial participation.~~

1 (6) (A) *For persons age 12 to 20, inclusive, the following*
2 *services, as described in the Youth Treatment Guidelines issued*
3 *by the department, or any successor to those guidelines, to the*
4 *extent not otherwise available under this chapter:*

- 5 (i) *Residential treatment services.*
- 6 (ii) *Outreach services.*
- 7 (iii) *Screening services.*
- 8 (iv) *Comprehensive assessment services.*
- 9 (v) *Individual counseling.*
- 10 (vi) *Family counseling.*
- 11 (vii) *Day care habilitative services.*
- 12 (viii) *Intensive day treatment services.*
- 13 (ix) *Ancillary services.*
- 14 (x) *Aftercare services.*

15 (B) *Notwithstanding any other provision of law, county*
16 *welfare departments shall not be responsible for the costs of*
17 *board and care related to services provided pursuant to clause*
18 *(i) of subparagraph (A).*

19 (C) *The State Department of Health Services shall use its best*
20 *efforts to obtain approval by the Centers for Medicare and*
21 *Medicaid Services of a Medicaid state plan amendment*
22 *providing for federal financial participation with respect to the*
23 *services specified in subparagraph (A). However, these services*
24 *shall be covered under the Medi-Cal program regardless of the*
25 *availability of federal financial participation.*

26 (b) Upon federal approval of a federal medicaid state plan
27 amendment authorizing federal financial participation in the
28 following services, and subject to appropriation of funds, “Drug
29 Medi-Cal services” shall also include the following services,
30 administered by the department, and to the extent consistent with
31 state and federal law:

32 (1) Notwithstanding subdivision (a) of Section 14132.90 of the
33 Welfare and Institutions Code, day care habilitative services,
34 which, for purposes of this paragraph, are outpatient counseling
35 and rehabilitation services provided to persons with alcohol or
36 other drug abuse diagnoses.

37 (2) Case management services, including supportive services
38 to assist persons with alcohol or other drug abuse diagnoses in
39 gaining access to medical, social, educational, and other needed
40 services.

1 (3) Aftercare services.

2 (c) (1) Annually, the department shall publish procedures for
3 contracting for Drug Medi-Cal services with certified providers
4 and for claiming payments, including procedures and
5 specifications for electronic data submission for services
6 rendered.

7 (2) The department, county alcohol and drug program
8 administrators, and alcohol and drug service providers shall
9 automate the claiming process and the process for the submission
10 of specific data required in connection with reimbursement for
11 Drug Medi-Cal services, except that this requirement applies
12 only if funding is available from sources other than those made
13 available for treatment or other services.

14 (d) A county or a contractor for the provision of Drug
15 Medi-Cal services shall notify the department, within 30 days of
16 the receipt of the county allocation, of its intent to contract, as a
17 component of the single state-county contract, and provide
18 certified services pursuant to Section 11758.42, for the proposed
19 budget year. The notification shall include an accurate and
20 complete budget proposal, the structure of which shall be
21 mutually agreed to by county alcohol and drug program
22 administrators and the department, in the format provided by the
23 department, for specific services, for a specific time period, and
24 including estimated units of service, estimated rate per unit
25 consistent with law and regulations, and total estimated cost for
26 appropriate services.

27 (e) (1) Within 30 days of receipt of the proposal described in
28 subdivision (d), the department shall provide, to counties and
29 contractors proposing to provide Drug Medi-Cal services in the
30 proposed budget year, a proposed multiple-year contract, as a
31 component of the single state-county contract, for these services,
32 a current utilization control plan, and appropriate administrative
33 procedures.

34 (2) A county contracting for alcohol and drug services shall
35 receive a single state-county contract for the net negotiated
36 amount and Drug Medi-Cal services.

37 (3) Contractors contracting for Drug Medi-Cal services shall
38 receive a Drug Medi-Cal contract.

39 (f) (1) Upon receipt of a contract proposal pursuant to
40 subdivision (d), a county and a contractor seeking to provide

1 reimbursable Drug Medi-Cal services and the department may
2 begin negotiations and the process for contract approval.

3 (2) If a county does not approve a contract by July 1 of the
4 appropriate fiscal year, in accordance with subdivisions (c) to (e),
5 inclusive, the county shall have 30 additional days in which to
6 approve a contract. If the county has not approved the contract by
7 the end of that 30-day period, the department shall contract
8 directly for services within 30 days.

9 (3) Counties shall negotiate contracts only with providers
10 certified to provide reimbursable Drug Medi-Cal services and
11 that elect to participate in this program. Upon contract approval
12 by the department, a county shall establish approved contracts
13 with certified providers within 30 days following enactment of
14 the annual Budget Act. A county may establish contract
15 provisions to ensure interim funding pending the execution of
16 final contracts, multiple-year contracts pending final annual
17 approval by the department, and, to the extent allowable under
18 the annual Budget Act, other procedures to ensure timely
19 payment for services.

20 (g) (1) For counties and contractors providing Drug Medi-Cal
21 services, pursuant to approved contracts, and that have accurate
22 and complete claims, reimbursement for services from state
23 General Fund moneys shall commence no later than 45 days
24 following the enactment of the annual Budget Act for the
25 appropriate state fiscal year.

26 (2) For counties and contractors providing Drug Medi-Cal
27 services, pursuant to approved contracts, and that have accurate
28 and complete claims, reimbursement for services from federal
29 medicaid funds shall commence no later than 45 days following
30 the enactment of the annual Budget Act for the appropriate state
31 fiscal year.

32 (3) The State Department of Health Services and the
33 department shall develop methods to ensure timely payment of
34 Drug Medi-Cal claims.

35 (4) The State Department of Health Services, in cooperation
36 with the department, shall take steps necessary to streamline the
37 billing system for reimbursable Drug Medi-Cal services, to assist
38 the department in meeting the billing provisions set forth in this
39 subdivision.

(h) The department shall submit a proposed interagency agreement to the State Department of Health Services by May 1 for the following fiscal year. Review and interim approval of all contractual and programmatic requirements, except final fiscal estimates, shall be completed by the State Department of Health Services by July 1. The interagency agreement shall not take effect until the annual Budget Act is enacted and fiscal estimates are approved by the State Department of Health Services. Final approval shall be completed within 45 days of enactment of the Budget Act.

(i) (1) A county or a provider certified to provide reimbursable Drug Medi-Cal services, that is contracting with the department, shall estimate the cost of those services by April 1 of the fiscal year covered by the contract, and shall amend current contracts, as necessary, by the following July 1.

(2) A county or a provider, except for a provider to whom subdivision (j) applies, shall submit accurate and complete cost reports for the previous state fiscal year by November 1, following the end of the state fiscal year. The department may settle cost for Drug Medi-Cal services, based on the cost report as the final amendment to the approved single state-county contract.

(j) Certified narcotic treatment program providers, that are exclusively billing the state or the county for services rendered to persons subject to Section 1210.1 of the Penal Code, Section 3063.1 of the Penal Code, or Section 11758.42 shall submit accurate and complete performance reports for the previous state fiscal year by November 1 following the end of that state fiscal year. A provider to which this subdivision applies shall estimate its budgets using the uniform state monthly reimbursement rate. The format and content of the performance reports shall be mutually agreed to by the department, the County Alcohol and Drug Program Administrators Association of California, and representatives of the treatment providers.

~~SEC. 3. Section 11758.48 is added to the Health and Safety Code, to read:~~

~~11758.48. With respect to drug and alcohol treatment services provided to minors 12 years of age and older, including minors who may consent to treatment pursuant to Section 6929 of the Family Code, the department shall offer a continuum of services~~

1 ranging from residential treatment facilities to individual and
2 group outpatient counseling services, to the extent that these
3 services are not provided by a county. Individual counseling
4 services shall constitute a significant component of the outpatient
5 drug and alcohol counseling services available to those minors.

6 SEC. 4. ~~Section 14053 of the Welfare and Institutions Code is~~
7 ~~amended to read:~~

8 14053. (a) ~~The term “health care services” means the~~
9 ~~benefits set forth in Article 4 (commencing with Section 14131)~~
10 ~~of this chapter and in Section 14021. The term includes inpatient~~
11 ~~hospital services for any individual under 21 years of age in an~~
12 ~~institution for mental diseases. Any individual under 21 years of~~
13 ~~age receiving inpatient psychiatric hospital services immediately~~
14 ~~preceding the date on which he or she attains age 21 may~~
15 ~~continue to receive these services until he or she attains age 22.~~
16 ~~The term also includes early and periodic screening, diagnosis,~~
17 ~~and treatment for any individual under 21 years of age.~~

18 (b) ~~The term “health care services” does not include, except to~~
19 ~~the extent permitted by federal law, any of the following:~~

20 (1) ~~Care or services for any individual who is an inmate of an~~
21 ~~institution, except as a patient in a medical institution, or as~~
22 ~~otherwise provided under Section 14138.2.~~

23 (2) ~~Care or services for any individual who has not attained 65~~
24 ~~years of age and who is a patient in an institution for~~
25 ~~tuberculosis.~~

26 (3) ~~Care or services for any individual who is 21 years of age~~
27 ~~or over, except as provided in the first paragraph of this section,~~
28 ~~and has not attained 65 years of age and who is a patient in an~~
29 ~~institution for mental disease.~~

30 (4) ~~Inpatient services provided to individuals 21 to 64 years of~~
31 ~~age, inclusive, in an institution for mental diseases operating~~
32 ~~under a consolidated license with a general acute care hospital~~
33 ~~pursuant to Section 1250.8 of the Health and Safety Code, unless~~
34 ~~federal financial participation is available for such inpatient~~
35 ~~services.~~

36 SEC. 5. ~~Section 14138.2 is added to the Welfare and~~
37 ~~Institutions Code, to read:~~

38 14138.2. ~~Drug and alcohol treatment services for minors who~~
39 ~~are incarcerated in a juvenile facility, or otherwise under the~~
40 ~~jurisdiction of the Division of Youth Operations within the~~

1 ~~Department of Corrections and Rehabilitation, shall be covered~~
2 ~~under this chapter, subject to utilization controls. This benefit~~
3 ~~shall apply regardless of the availability of federal financial~~
4 ~~participation. The services available under this section shall be~~
5 ~~substantially similar to those available under Chapter 3.4~~
6 ~~(commencing with Section 11758.40) of Part 1 of Division 10.5~~
7 ~~of the Health and Safety Code, consistent with the legitimate~~
8 ~~security interests of the facility.~~

O